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UNCLAS SECTION 01 OF 02 HALIFAX 0110

SIPDIS

SENSITIVE BUT UNCLASSIFIED

DEPT FOR WHA/CAN
DEPT PLEASE PASS TO FDA

E.O. 12958: N/A

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SUBJECT: FDA BIOTERRORISM MEASURES: NEWFOUNDLAND SEEKS
SPECIAL CONSIDERATION FOR FISH EXPORTS

REF: Halifax 0027 and previous

1. SENSITIVE BUT UNCLASSIFIED - ENTIRE TEXT.

2. (SBU) SUMMARY: The province of Newfoundland-Labrador believes its exporters of fish and other perishable products should get special consideration when the USG implements new FDA border measures to combat bioterrorism. Newfoundland, which depends heavily on its export of freshly caught and live seafood to U.S. markets, believes that some of the proposed new regulations would severely hamper this trade. Echoing the concerns of the other Atlantic provinces (REFTEL), Newfoundland is pressing for the USG to adopt a shorter time requirement for notification of perishable shipments crossing the border. Newfoundland is also seeking a rule change that would exempt its large fish-processing companies from the "one physical location" definition, as well as a reconsideration of the definition of "originating country". (END SUMMARY)

3. (SBU) Newfoundland-Labrador's Minister of Fisheries made an impromptu call on the CG on April 4 to personally relay her province's apprehensions over future USG regulations emanating from the Bioterrorism Act, which will have a significant impact on the province's lucrative export of freshly caught and live seafood to the United States. Minister Yvonne Jones, who just joined the cabinet of Premier Roger Grimes in February, explained that Newfoundland has strong reasons for being concerned about the new regulations because it is in a more difficult position than any other Canadian province. Unlike its three regional counterparts, Newfoundland's fishing industry is the mainstay of the province, with a landed value of over C\$1 billion annually. Of those products, approximately 70 to 80 percent are exported to the United States, making Newfoundland extremely vulnerable to constraints in cross-border shipments.

4. (SBU) Unlike other Atlantic provinces, Newfoundland's exporters must get their U.S.-bound perishable products first to Nova Scotia by ocean ferry before sending them by truck overland to the Maine-New Brunswick border. Severe weather conditions often disrupt the ferry schedule, consequently increasing the total transit time to the U.S. border. Minister Jones argued that these conditions often make it impossible to estimate arrival times of perishable fish products, and that exporters would be unable to adhere to new regulations requiring a strict 24-hour advance notification for shipments arriving at the U.S. border.

5. (SBU) The Newfoundland government, more so than its regional counterparts, is therefore making a strong case that the FDA allow for two categories of products---perishable and non-perishable---in determining pre-notification time of imports, allowing shorter advance notification for perishable ones. Minister Jones also pointed out that the requirement that a U.S. agent submit the advance prior notice was additionally cumbersome, but she acknowledged that most Newfoundland shippers could comply.

6. (SBU) Another major problem, the Minister explained, is that the fish-processing industry in Newfoundland is in the hands of a few very large companies which operate facilities in several different locations in the province. Often these facilities operate under different company names, reflecting the product they produce. As such, each would require separate registration as proposed by the draft FDA regulations. The Minister is proposing an amendment to those regulations that would modify the "one physical location" definition to allow for multi-plant operators. This would enable the large parent companies to continue to co-mingle their products regardless of where in the province they were produced.

7. (SBU) Finally, Newfoundland would have unique difficulties with the draft requirement concerning identification of originating country. Due to ongoing declines in Newfoundland's groundfishery, companies have to rely on purchases of raw fish product "on the water" from vessels flagged in a variety of countries, predominately Russia and Norway. All the raw fish, however, is handled and processed the same way as domestic supplies, subject to the same quality control and safety measures. Consequently, the Minister made a strong case that exports be permitted to identify Canada as the originating

country, instead of listing the country under which the harvesting vessel is flagged.

18. (SBU) COMMENT: Newfoundland's predicament, although perhaps a bit more dire than that of the other three Atlantic provinces, reflects similar concerns about the potentially devastating impact of new bioterrorism regulations on Canadian perishable exports to U.S. markets. All four Atlantic premiers have signed a joint letter to Deputy PM Manley urging Ottawa to lobby for the necessary rule changes with his U.S. interlocutors. The Newfoundland provincial government has also delivered its concerns directly to FDA in the form of a letter signed by the Minister on March 31. Newfoundland now joins Nova Scotia in having lobbied the CG directly in the hope of getting the Ambassador to weight in with senior FDA officials on these proposed modifications. CG responded that the Ambassador and the U.S. Mission in Canada are aware of these Canadian concerns, which the Fisheries Council of Canada and the Nova Scotia Fish Packers Association have also raised in the form of feedback to the FDA, and that we are confident that FDA will take into consideration the modifications proposed by these Canadian organizations and by the affected provinces.

KASHKETT